EXHIBIT A

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 13A-10175-8

Date Filed NOV. 27, 2013

Attorney's Address
NINAN SAMUEL
2020 SPRINGMIST TER
LAWRENCEVILLE, GA 30043

Name and Address of Party to be Served
SHAKINAH EDWARDS -
CT CORPORATION SYSTEM
1201 PEACHTREE STREET, NE.
ATLANTA, GA 30361

SUPERIOR COURT
GEORGIA, FULTON COUNTY

NINAN SAMUEL
Plaintiff

VS.

BANK OF AMERICA
Defendant

SHERIFF'S ENTRY OF SERVICE

PERSONAL ☐

I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS ☐

I have this day served the defendant _____ by leaving a copy of the action and summons at this most place notorious place of abode in this county.

Delivered same into hands of _____ described as follows age, about ____ years; weight, about _____ pounds; height about ___ feet and ___ inches, domiciled at the residence of the defendant.

CORPORATION ☒

Served the defendant Bank of America a corporation by leaving a copy of the with in action and summons with S. Edwards CT Corp in charge of the office and place of doing business of said Corporation in this County.

TACK & MAIL ☐

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon continuing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST ☐

Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 3rd day of Dec 20 13.

DEPUTY

SHERIFF DOCKET _____ PAGE _____

WHITE - CLERK; CANARY - PLAINTIFF; PINK - DEFENDANT

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

NINAN SAMUEL

CIVIL ACTION NUMBER: 13A 10175-8

PLAINTIFF

VS.

BANK OF AMERICA

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 27 day of Nov, 2013.

Richard T. Alexander, Jr.,
Clerk of Superior Court

By Wendy Mann
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

SC-1 Rev. 2011

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IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Ninan Samuel,
Plaintiff

v.

BANK OF AMERICA

Defendant/Respondent

CIVIL ACTION
FILE NO: 16A 10175-8

VERIFIED COMPLAINT

COMES NOW Plaintiff, Ninan Samuel, a GWINNETT COUNTY resident, owning property within the county, proceeding ***in propria persona in Sui Juris***, to file this ***Verified Complaint*** against the above named Defendant/Respondent, BANK OF AMERICA.

PREFACE

According to Georgia Law when proceedings to foreclose a mortgage shall be instituted and a defense shall be set up thereto, the issue shall be submitted to and tried by a jury. Georgia Code - **Title 44, Section 44-14-186 – therefore any foreclosure scheduled must be postponed.**

"*All persons are presumed to know the law, if any person acts under any unconstitutional statue, he does so at his own peril. He must take the consequences*" 16 Am Jur 177, 178.

PARTIES TO THE ACTION

Plaintiff, **Ninan Samuel**, at all times relevant, has owned and resided at 2020 Spring Mist Terrace, Lawrenceville, GA 30043, in GWINNETT COUNTY.

Defendant/Respondent **Bank of America NA** ("BOA") is for profit foreign corporation, formed under the laws of Delaware, with its principal place of business located at **150 N College Street, NC1-208-17-05, Charlotte, NC 28255**. They will be served through their Registered Agent on file at Georgia Secretary of State's Office: Registered Agent: **Shakinah Edwards** at **CT Corporation System**, located at **1201 Peachtree St., N.E., Atlanta, GA 30361, Fulton County, Georgia**. A copy of this complaint and summons will be mailed to the above addresses Priority Mail with delivery confirmation. A copy will also be emailed to calegalit@bankofamerica.com.

RIGHT TO THE AMEND THE ACTION

The Plaintiff expressly reserves the right to amend or dismiss this Complaint at any time to work out an agreeable modification or new paper, to correct service, join other Defendants, and/or Plaintiffs, add more issues of FACT, and/or add addendums and/or plead additional damages, to the Complaint.

PLAINTIFF IS A PRO PER

"Pleadings in this case are being filed by Plaintiff in **Propria Persona** in **Sui Juris**, wherein pleadings are to be considered without regard to technicalities. **Propria pleadings are not to be held to the same high standards of perfection as practicing lawyers**." See *Haines v. Kerner* 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See *Hulsey v. Ownes* 63 F3d 354 (5th Cir 1995) See In Re: *Hall v. Bellmon* 935 F.2d 1106 (10th Cir. 1991). In *Puckett v. Cox*, it was held that a pro-per pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in *Conley v. Gibson*, 355 U.S. 41 at 48 (1957) "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8(f) FRCP and the State Court rule, this holds that, all pleadings shall be construed to do substantial justice.

In viewing the Plaintiff's pro per complaint, **the Court should realize that the factual allegations (FACTS) state a claim** but might be missing some important elements that may have not occurred to the Plaintiff. **Therefore, the Plaintiff should be allowed to amend or dismiss the complaint if needed at any time before trial because of discovery or both parties mutual agreement for a new loan meeting the Plaintiff's requirements stated in the "REMEDY REQUESTED".**

Conclusory allegations without supporting factual averments are insufficient to state a claim on which relief can be based – this is so because a pro per plaintiff requires no special legal training to recount the facts surrounding the alleged injury, and Plaintiff must provide such facts if the Court is to determine whether Plaintiff makes out a claim on which relief can be granted. Moreover, in analyzing the sufficiency of the Plaintiff's complaint, the Court need accept as true only the Plaintiff's **well-pleaded factual contentions**, not his/her conclusory allegations. **The legal sufficiency of a complaint is a question of law**. *See Moore*, 438 F.3d at 1039.

Plaintiff begs the Court's patience as Plaintiff is not in the practice of law and cannot be held to the same standards as a practicing attorney. Plaintiff has spent countless hours gathering information from the internet and from Pro Se Consultants to make his point, pleadings, and claims for the relief which by law he is granted. Plaintiff is doing his best to present a compelling case backed up with reason, logic and with proper reliable evidence.

ALLEGATIONS OF FACT

The **Defendant/Respondent** named in this Complaint by Law is being given thirty (30) days from the date of service to CONTEST by substantive and probative evidence each and every allegation of FACT [and questions] put forth in this action. Failure to lawfully rebut any and all allegations completely will be evidence of a tacit admission of the TRUTH of the FACTS and will serve as having given Defendant/Respondent's Fifth Amendment Due Process i.e. **'Notice and Opportunity to Respond'.**

> Any rebuttal of the truth of the following statements of FACT shall (must) be in the form of an affidavit, signed and notarized by high ranking officer(s) or agent(s) of the principals involved and sent with 'proof of service', USPS certified mail number, or will be void. An unrebutted FACT stands as truth.

If there is no lawful, accurate and complete response within the 30 days provided, the FACTS stated **will be deemed acknowledge accurate** by the Defendant/Respondent. Failure to respond or perform within the thirty (30) days provided, refusal or failure to satisfactory and lawfully rebut each and every FACT will be deemed **acquiescence creating an estoppel**. Defendant/Respondent will be given 10 days grace to respond to **Notice of Default** with opportunity to cure.

> "Allegation of complaint not denied in answer [with reliable, substantive and probative evidence] must be taken as admitted." *Fontes v. Porter*, 1946 (CA 9 Cal) 156 F2d 956. NOTE: See U.S. Constitution Article IV Section 1 for Application of Law.

§ 24-3-36. **Acquiescence or Silence as Admission**. Acquiescence or silence, when the circumstances require an answer, a denial, or other conduct, may amount to an admission.

DEFENDANT'S AVOIDANCE TO BRING PROPER EVIDENCE

Plaintiff strives to thwart one of the Defendant/Respondent' favorite strategies – ***RIGHT OF REMOVAL*** – and to pave the way to continuing this suit, compelling the Defendant/Respondent to prove that they have standing – that they have the right to enforce the alleged Note. Plaintiff points out that Defendant/Respondent might initiate the removal to avoid a Superior Court Order for the Defendant/Respondent to bring proper evidence of a complete Chain of Custody. Plaintiff would like to use the ruling from the **U.S. Court of Appeals, Eleventh Circuit, Sept 07, 2011 D.C. Docket No. 1:09-CV-02355-CAP** to block any removal to Federal Court.

The 11th Circuit affirmed that the federal laws in question must be ***central to the movant's cause of action***. THIS RULING IS CONTROLLING LAW IN GEORGIA.

> Banks have consistently abused their constitutional Right of Removal as a strategy to either get petitioning homeowners to drop their cases, or to quickly move for a dismissal based on a claim of insufficient pleadings (i.e. the homeowners have no case and are not likely to win). This Bank strategy is often exercised on homeowners' petitions and complaints that only required the Bank to prove legal standing to collect payments and to foreclose. This egregious abuse of the **Right of Removal** has truly thwarted State Judges from protecting Georgia citizens from fraudulent bank foreclosure, and it has denied due process to homeowners.

As this is so commonplace, Plaintiff therefore petitions this Honorable Court—in anticipation of any spurious action (avoiding bringing proper evidence requested) of this nature by the Defendant/Respondent —to reject any motion to remove should it arise.

VERIFICATION OF THE ALLEGED DEBT

The Fair Debt Collection Practices Act (FDCPA) as codified at 15 USC § 1692 et seq. declares that a debt collector **must** -- when requested by a Qualified Written Request (QWR) letter and a Fair Debt Collections Practices Act (FDCPA) inquiry -- provide a complete verification of the alleged debt, i.e. validate the debt, and respond in full to all questions asked. See Section 6 of the Real Estate Settlement Procedures Act (RESPA) 12 U.S.C. § 2605 (e), sec. 2601 and § 2609. This demand is binding upon every principal and agent re subject matter set forth. Per the FDCPA, as codified at 15 USC § 1692, **the debt collector [servicer] is mandated to cease and desist all collection activity and stop any foreclosure proceedings until verification and validation of the DEBT is provided to the homeowner**.

(a) VERIFICATION/VALIDATION. Verification is defined as:

"Confirmation of correctness, truth, or authenticity by **affidavit, oath**, or **deposition**. Affidavit of truth of matter stated and object of verification is to assure good faith in averments or statements of party." **Black's Law Dictionary Sixth Edition, 1990**.

What this means is, the debt collector must swear "true, correct, and complete" (equivalent of "the truth, the whole truth, and nothing but the truth", i.e. testimony) that verifies exchange of valuable consideration by affidavit or deposition that allows them to demand repayment.

Verification and validation per the FDCPA 15 USC § 1692. Proof of injury is demanded and required. Accounting data, bookkeeping and ledgering records are the **only true measure** of verifying proof of payment and showing proof of loss: a) that there was a financial transaction where money exchanged hands; and b) that there is a damage, loss or injury as a result of nonpayment. The record of this transaction is made in an accounting ledger that is subject to audit and public disclosure through 12 U.S.C. 1813(l)(1).

FAILURE TO PROVIDE THE DOCUMENTS REQUESTED WILL BE ACCEPTED AS FACT THAT THERE IS NO EVIDENCE THAT THERE WAS A FINANCIAL TRANSACTION WHERE MONEY EXCHANGED HANDS PERTAINING TO THE SUBJECT PROPERTY

CEASE AND DESIST ALL COLLECTION AND FORECLOSURE ACTIVITY

Plaintiff by registered mail sent the Defendant/Respondent a DEMAND LETTER (*see* **EXHIBIT "1"**) requesting modification on November 13, 2013. They were put on notice that they must respond to the DEMAND LETTER agreeing to the terms demanded or with a counter offer within 10 days of the date they received the letter. To date Defendant/Respondent has failed to do so. ~~Therefore Plaintiff has proceeded~~ with filing this complaint to protect his home and his rights.

The Defendant/Respondent was put on notice June 14, 2012 via a QWR that they must respond to the QWR LETTER within 20 business days and that they **must answer each and every question of the Qualified Written Request completely within 60 business days from the date of the request, pursuant to 12 U.S.C. Section 2601, 2605(e)(1)(A) and Reg. X Section 3500.21(e)(1).**

Plaintiff has not received proper validation of the alleged debt accompanied by an Affidavit from the Alleged Lender, nor **complete** written responses to each of the queries, the Defendant/Respondent, Defendant/Respondent's foreclosure attorney, and/or any alleged Lender is mandated under USC and "FDCPA" to **CEASE AND DESIST ALL COLLECTION AND FORECLOSURE ACTIVITY** until validation to show proper "Chain of Custody" and that they have a RIGHT to enforce the alleged NOTE. The Defendant/Respondent needs to show this Court where they got the alleged Note showing the endorsements and/or allonge – the '***Chain of Custody***' from the Original Lender to itself.

UCC 3:309(2) states that the Bank [Defendant/Respondent] must 'prove' its right to enforce the Note -- **THIS THE PLAINTIFF BELIEVES THEY CANNOT DO.**

There Should Be No Foreclosure Conducted Until Proper And Complete Validation Has Been Received Along With The Defendant/Respondent Proving Its Right To Enforce The Note.

BACKGROUND FACTS

Plaintiff would like to give some background facts to this honorable Court and prove that "BANKS LEND MONEY THEY DON'T HAVE." The problem that we have in this foreclosure crisis is a flawed banking system. A fractional reserve banking system, where bankers, like the Defendant/Respondent, can lend money that they do not have. In an International Fund working paper titled "*The Chicago Plan Revisited*" we find the following:

> "...under the present system banks do not have to wait for depositors to appear and make funds available before they can on-lend, or **intermediate**, those funds. Rather, they create their own funds, deposits, in the act of lending. This fact can be verified in the description of the money creation system in many central bank statements, and it is obvious to anybody who has ever lent money and created the resulting book entries."

Plaintiff would also like to point out that the Federal Reserve Bank of Chicago in their "*Modern Money Mechanics*" states the following:

> "What they do when they make loans is to accept promissory notes in exchange for credits to the borrowers' transactions account. Loans (assets) and deposits (liabilities) both rise. Reserves are unchanged by the loan transactions. But the deposit credits constitute new additions to the total deposits of the banking system."

Plaintiff would also like to add from the Federal Reserve Bank of New York's publication "*I BET YOU THOUGHT*" also states:

> "Checkbook money is "**created**" by currency deposits. Commercial banks create checkbook money whenever they grant a loan, simply by adding new deposit dollars to accounts on their books in exchange for a borrower's IOU."

And then there is The Federal Reserve Bank of Dallas's publication "*Money and Banking*" that states: "...banks actually "create" money when they lend it"

Plaintiff would like to introduce to the Court, Walker F. Todd, former attorney, with 20 years as being an attorney and legal officer for the legal departments of the Federal Reserve Banks of New York and Cleveland. Following is what Mr. Todd has stated:

> *"Banks deposit promissory notes with the intent of treating them like deposits of cash. See, 12 U.S.C. Section 1813 (l(1) (definition of "deposit" under Federal Deposit Insurance Act). The Bank acts in the capacity of a lending institution, and the newly issued credit or money is similar or equivalent to a promissory note, which may be treated as a deposit of money when received by the lending bank."* http://freedom-school.com/affidavit_of_walker_todd_1-20-04.pdf

If banks deposit your promissory note as cash for the ledger to balance - the same value must be paid out. If the sum paid out is the "loan drawdown" [using the money] then the ledger is balanced. So the question to ask is "who owned the money that funded the loan drawdown"? The Federal Reserve Bank of New York, the IMF and four other banks state that **your promissory note** was the source. [In this case it was the Plaintiff's promissory note]

Since Plaintiff's bank [originator] has done this, why is the Plaintiff forced to repay the Defendant/Respondent a mortgage payment month after month, year after year when in fact, he was the originator of the funds?

To prove "chain of title" the Defendant/Respondent should be able to produce documentation of prior title, ownership and rights (history and origin of funds) to the money they purportedly loaned Plaintiff. If they can't then they cannot foreclose.

The IMF *Working Paper* states it is oblivious to anyone who has ever lent money and created the resulting book entries. So the next question to be asked is "Did Plaintiff borrow money that was earned over the course of years and years of hard work, or did he borrow his own promise that was deposited as cash that was created in milliseconds? Put another way, did they loan money they had in the bank before Plaintiff walked in the door, or did they loan money they created after Plaintiff walked in the door? Seems simple enough to understand!

The wall street Banksters are making untold Billions off of the mortgage scam through a complex pattern of criminal fraud, MERS and illegal packaging and reselling of mortgage investments without properly transferring titles. They are double and in some

cases triple dipping due to Government mortgage insurance and various crafty tricks with repossessions. THIS HAS TO STOP!

The Defendant/Respondent risked none of its own assets in the so-called 'loan' to Plaintiff; rather it used Plaintiff's note to pay the seller, in order to raise an asset for itself, and also used the face value of Plaintiff's note as 'principal' which it claims it 'lent' Plaintiff and against which it charged interest. Consideration on the part of the bank is non-existent so **the bank has nothing to lose**. It cannot possibly sustain a loss. **Since consideration is essential to an enforceable contract and the note was obtained from Plaintiff via fraud, the entire transaction/ contract is fraudulent.**

- Mortgage contracts are written in such a way to appear as if the bank lent us funds before they received our promissory note/ mortgage contract so that the bank can use it as a receipt which they can sell. The contract reads, **"For a loan I have received...", but, you haven't received it yet.** So in fact, we signed and gave the mortgage contract/note to the bank prior to their giving us the funds. So, the application for the loan created the funds (it has our signature on it) and the note (with our signature) covered the funds to 'repay' the loan. Again, this is Constructive Fraud.

The evidence of the fraud are in the bookkeeping and tax reporting; further supporting evidence is in the historical and procedural history of Freddie/Fannie, specifically with regards to the "uniform instrument" deed of trust, and change in the laws, judicial and education systems over the decades.

The instruments of the fraud are the Plaintiff's Security deed and the promissory note, which are illegal securities, commercial liens, and landlord tenant leases. The only correct response to a mortgage is cancellation and corresponding tax reporting (1099a, 1099c, 10990id, 1096) and running everything UCC.

Homeowner base level of knowledge is minimal, by design; the hardest point for homeowners to come to terms with is that **NO LOAN WAS EVER MADE**. With Discovery Plaintiff can prove that no loan was ever made.

This is what this ACTION is all about. The Defendant/Respondent is attempting to obtain Plaintiff's property by deception, uttering fraudulent instruments, using false fictitious claims

and "common law fraud". The Plaintiff does not owe BANK OF AMERICA any money and/or was not in default because the contract, if one existed, **was invalid.**

Plaintiff DEMANDS that the loan originator and/or the Defendant/Respondent produce documentation of the history and origin of funds they purportedly loaned to Plaintiff. Can Defendant/Respondent prove that they had prior title, ownership and rights to it?

NO - THEY CANNOT.

Plaintiff also demands that the Defendant/Respondent produce documentation of the actual transaction and transfer of said funds from loner to borrower – the Plaintiff. It is very simple and proven here that Banks lend money they don't have. Therefore there is no contract.

NO LOAN WAS EVER MADE

IN THIS ACTION THE MOTION BECOMES A PETITION TO ENFORCE INQUIRY EITHER THROUGH DIRECT ORDER OR THROUGH DISCOVERY FOR THE DEFENDANT/RESPONDENT TO PROVIDE THE FOLLOWING:

1. Produce documentation of prior title, ownership and rights to the money they purportedly loaned Plaintiff.
2. A certified copy of the original alleged note accompanied by an AFFIDAVIT from the alleged lender showing Chain of Custody.
3. Provide "Proof of Secured Creditor" status. See O.C.G.A. Section 18-2-80 (a) Principals of Law and Equity remain applicable.
4. Identify to what the alleged debt pertains.
5. Provide details how the alleged debt was calculated.
   Field v. Wilber Law Firm, Donald L. Wilber and Kenneth Wilber, USCA-02-C-0072, 7th Circuit Court, September 2004.
6. Provide copies of any papers that show that Plaintiff agreed to pay the alleged debt.
7. Identify the original creditor/lender and that prove that the Lender did not sell the alleged NOTE to Fannie Mae the day it was signed.
8. Provide the agreement/endorsements between the creditor and your firm which

authorizes Defendant/Respondent to collect funds (***without a contract, your firm has no right to foreclose***).

9. Provide evidence that the **Statute of Limitations** has not expired on this account. When was the last payment from the Plaintiff received?

10. Provide your license numbers and the Alleged Lender's Registered Agent.

11. Production of proof of payment at origination and all transfers upon which the lender relies for its authority to collect the money.

12. Provide proof of loss by access to those people who might have received an assignment of the loan of who have a back-door ownership interest in the loan through ownership of a derivative or credit default swap.

13. Provide proof that shows the alleged mortgage was transferred according to the PSA or as required by Georgia law. Showing that the trustee would possess the authority to foreclose in the event of a default by the homeowner.

Plaintiff demands that Defendant/Respondent provide substantive and probative evidence to the above 13 inquires and validate the debt by sworn oath, affidavit or deposition (codified at 15 USC § 1692 et seq.) **before proceeding with any foreclosure sale**.

ISSUES OF FACT

Plaintiff is requiring that Defendant/Respondent BANK OF AMERICA rebut/contest by reliable, substantive and probative documentation each and every one of the following issues of FACT (questions to be answered in full and not legalize that is juvenile and repetitive.

According to the Civil Practice Act as codified in the Official Code of Georgia (Section 9-11-54 (a)(1) & (b) and Title 5 U.S.C. "the Privacy Act" **demands Defendant/Respondent rebut/contest each of the following issues of FACT stated in the body of this complaint**.

Chapter 37 of the Code of Federal Regulations 10.136(d) (failure to deny allegations in a complaint) **every allegation in a complaint which is not denied by a respondent in the answer is deemed to be admitted and may be considered proven**. No further evidence in respect of that allegation need be received by the administrative law judge at any hearing.

Failure to timely file an answer will constitute an admission of the allegations in the complaint.

FOLLOWING ARE 29 ALLEGATIONS/FACTS/QUESTIONS THAT THE PLAINTIFF WOULD LIKE THE DEFENDANT/RESPONDENT TO RESPOND/ANSWER DIRECTLY AND COMPLETELY WITH SUBSTANTIVE AND PROBATIVE EVIDENCE:

FACT 1

It is a FACT that Defendant/Respondent has stated that they lost money and that the Plaintiff owes it. If this is so, then Plaintiff demands that Defendant/Respondent show the Court the actual proof that they made the loan lost the money and that they have NOT already been paid by Credit Default Swap insurance or by other entities. Can the Defendant/Respondent provide the actual proof?

> "Allegation of complaint not denied in answer [with reliable, substantive and probative evidence] must be taken as admitted." *Fontes v. Porter*, 1946 (CA 9 Cal) 156 F2d 956. NOTE: See U.S. Constitution Article IV Section 1 for Application of Law.

FACT 2

It is a FACT that on the alleged assignment, the Assignor was the originator COUNTRYWIDE BANK (CWB). The Assignor was not active as of the date of the assignment. CWB was not a viable entity on the date of the assignment. **Therefore the assignment is a FALSE DOCUMENT.**

See Exhibit "2" *As described in the allegations in this case Defendant/Respondents' misconduct resulted in the issuance of improper mortgages, premature and unauthorized foreclosures, violation of service members' and other homeowners' rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds.*

The question the Plaintiff would like to ask is: "**Why would the Assignee accept a NON-PERFORMING loan into its portfolio and how would it explain purchasing non-performing loans to its shareholders?**" Can the Defendant/Respondent answer this?

THE COURT MUST REQUIRE THE ALLEGED "ASSIGNMENT(S) AND CHAIN OF CUSTODY " TO BE FORENSICLY TESTED AND UNDER DISCOVERY MUST REQUIRE THE EXAMINATION OF THE MONEY TRAIL TO MAKE SURE THE ASSIGNMENT(S) WAS NOT A SHAM.

FACT 3

It is a FACT that the MONEY never came from ANY of the parties in the sham securitization chain starting with the loan originator, CWB (the original lender). Plaintiff has expert witness affidavit that the assignments were fabricated and forged. If the Defendant/Respondent truly provided the funds like It wants everyone to believe, then BOA would be able to identify the account that was debited when the loan account was created. In reality, the Plaintiff is paying the value of the note twice, once by trading the note for property and the second time by paying the bank what they call the principal, then paying an additional 2 or 3 times the value of the original note in interest.

This is a FACT that the Defendant/Respondent cannot deny or dispute. Can the Defendant/Respondent show this court the loan account that it created?

FACT 4

It is a FACT that **CWB's ledger will show the Plaintiff's note as being deposited and no money debited from the bank's assets or from another depositor's account**. Banks are not permitted to loan other depositor's money or their own assets -- it is the accounting that proves this. Therefore, Plaintiff will use this verifying technique to expose the truth and the fact that the written agreement did not disclose all legal obligations of the parties. These terms **were not fully disclosed** because the bank's attorneys wrote the agreement and the bank receives an incredible benefit from not disclosing it. The bank receives many times the value of Plaintiff's note without risking one single dollar worth of assets.

Plaintiff demands to see all of the money transactions and requiring that the Defendant/Respondent provide proof of payment and proof of loss by access to those entities who have received an assignment of the loan or who have a back-door ownership interest in the loan through ownership of a derivative or a credit default swap and present to the Court the accounting data that shows the loan receivable on their books.

FACT 5

It is a FACT that there was **NO DISCLOSURE** to the Plaintiff [borrower] to the effect that the "lender" was not really loaning any of their money to the Plaintiff and therefore was taking no risk whatsoever in the transaction. Also it was **NOT DISCLOSED** to the Plaintiff that according to FEDERAL LAW, banks are not allowed to loan credit and are also not allowed to loan their own or their depositor's money.

Following is an excerpt from **WHERE DOES THE FRAUD BEGIN**? *

Is there disclosure to the "borrower" to the effect that the "lender" is not really loaning any of their money to the "borrower" and therefore is taking no risk whatsoever in the transaction? Is it disclosed to the "borrower" that according to FEDERAL LAW, banks are not allowed to loan credit and are also not allowed to loan their own or their depositor's money?

*MEMORANDUM OF LAW – BANK FRAUD: FROM THE BAR ASSOCIATION'S OFFICIAL WEB SITE
http://www.fourwinds10.net/resources/uploads/file/WHEREDOESTHEFRAUDBEGIN.pdf

FACT 6

It is a FACT that **the "Lender" is prohibited from lending its own credit**. It can only lend money. Lending credit is the exact opposite of lending money, which is the real business of banking, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another." (*American Express Co. vs. Citizens State Bank*, 194 NW 429). "Banking Associations from the very nature of their business are prohibited from lending credit." (*St. Louis Savings Bank vs. Parmalee* 95 U. S. 557).

> "It has been settled beyond controversy that a national bank, under federal Law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts

of another. All such contracts entered into by its officers are **ultra vires** . . ." *Howard & Foster Co. v. Citizens Nat'l Bank of Union*, 133 SC 202, 130 SE 759(1926).

"It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in any of the various ways in which that might be done." *Federal Intermediate Credit Bank v. L 'Herrison*, 33 F 2d 841, 842 (1929).
"There is no doubt but what the law is that a national bank cannot lend its credit or become an accommodation endorser." *National Bank of Commerce v. Atkinson*, 55 E 471.

"A bank is not the Holder in Due Course upon merely crediting the depositor's account." (*Bankers Trust vs. Nagler* 229, NYS 2nd 142).

"A national bank has not power to lend credit. *Farmers and Miners Bank v. Bluefield National Bank*, 11 F 2nd 83,271 US 669.

Banks **DO NOT LOAN MONEY** from their own assets but rather, THEY CREATE MONEY by simply entering the amount created or crediting it in an accounting ledger. (Public Information Centers for Federal Reserve Banks)

FACT 7

It is a FACT that banks do not lend money but credit in violation of U.S. Constitution Article 1 Section 10 i.e. "No State shall ...emit Bills of Credit". Can the Defendant/Respondent answer the question – DO THEY LEND MONEY OR CREDIT?

Mr. Morgan (banker) in *First National Bank of Montgomery v. Jerome Daly* (1968)" ...admitted that all of the money or Credit which was used as a consideration for the Note and Mortgage in consideration for the Mortgage Deed **WAS CREATED UPON THEIR BOOKS**, that this was standard banking practice exercised by their bank in combination with the Federal Reserve Bank of Minneapolis, and other private banks, further, that he knew of no United States statue or law that gave the Plaintiff the authority to do this."

"Banking associations from the very nature of the business are prohibited from lending credit." *St. Louis Savings Bank v. Parmalee*, 95 US 557.

PLAINTIFF DEMANDS THE FOLLOWING DOCUMENTS FROM DEFENDANT/RESPONDENT:

1. The bookkeeping and accounting documents of the source of funds for the principal
2. The documents that identifies the account that was debited when the loan account was created

3. A sworn copy of the accounting, under penalty of perjury and on the bank's commercial liability, **showing that the loan came from the bank or from the originator** (history and origin of funds)
4. A validation of the debt in the form of an affidavit or a signed invoice

FACT 8

It is a FACT that when it comes to the Plaintiff's mortgage, **no loan was ever made.** No loan was made so the Defendant/Respondent does not have to be paid anything. And the same goes for the debt . . . it's all contrived, **no debt can exist unless a loan was made. NO LOAN WAS EVER MADE.** So the question becomes "can the Defendant/Respondent prove that there was a loan made?

FACT 9

It is a FACT that the Defendant/Respondent cannot show this honorable Court proof of any loss, proof of payment or any financial transaction that would entitle them to enforce an invalid note or foreclose on an invalid, unperfected mortgage lien. Defendant/Respondent cannot prove that a loan was made to the Plaintiff, that there was and is no accounting data that shows the loan receivable on their books. The question becomes, can the Defendant/Respondent show the court accounting data that shows the loan receivable on their books?

The Federal Reserve Bank publications *I Bet You Thought*, page 27, and *Modern Money Mechanics*, pages 2-25, and others admit that the bank creates new money every time that banks grant loans, that the **promissory note is money**, and that the bank records a loan from you to the bank, resulting in a new bank liability. The new bank liability shows that the bank owes you money from recording the promissory note or credit card application as a loan from you to the bank. **The lender KEEPS THIS DEPOSIT AND NEVER PAYS YOU BACK.**

FACT 10

It is a FACT that the Defendant/Respondent will present the argument that they don't need to show the actual transactions or give a validation of the debt in the form of an affidavit or a signed invoice. **This is a dodge to protect them from showing that the transactions in the scheme were all a sham**. They will say they lost money, when there was no consideration at the closing. **There was no financial transaction where money exchanged hands. Let the Defendant/Respondent show the Court the actual proof that they made the loan, lost the**

money and have not already been paid. There was no consideration, no real money at the "closing" of the loan when the borrower signed the papers.

If you ask me for a loan for $1,000 and I say "OK just sign this note," and you sign the note, WHAT HAPPENS THEN - WHEN I DON'T GIVE YOU THE $1,000? *The answer is that I can still sue you – because on its face the note LOOKS like a negotiable instrument – but I cannot win. Why? Because if you deny that I ever completed the loan transaction by funding the loan to you, then I have to PROVE that I gave you the money. I can't prove this because I never gave you the $1,000. My argument is that you did receive a loan that day and therefore you owe me the money* -- THIS ARGUMENT IS A LIE. *You only owe the money to whoever actually gave you the money... **WHICH IN THIS CASE IS NO ONE.***

So the questions becomes can the Defendant/Respondent show this Honorable Court the actual transactions or give a validation of the debt in the form of an affidavit or a signed invoice?

FACT 11

It is a FACT that CWB or the Defendant/Respondent cannot prove that either one gave the Plaintiff the money. Money never came from ANY of the parties. Now the Defendant/Respondent claims ownership of the loan despite the fact that they had not funded one dime to originate or purchase the Plaintiff's loan. Either way, **the debt is non-existent**, paid, settled, or waived which means there is no legitimate basis for collection or foreclosure against the Plaintiff. Therefore, there is no debt and therefore there is **no default**.

Plaintiff will use Defendant/Respondent's bookkeeping and accounting to show that any foreclosure on their part is wrongful. Therefore, **all foreclosure proceedings must be stopped** as there is no debt and therefore no default at the time of foreclosure.

A person is not a debtor and is not a borrower on a debt that isn't due. And a debtor or borrower is not in default on a scheduled payment that is already been paid or is not due.

FACT 12

It is a FACT that Plaintiff's promissory note was the source of the loan. *See* **EXHIBIT "3" - Plaintiff Funded His Own Loan**.

Through the bank selling your note, YOU PAID FOR YOUR PURCHASE WITH THE PROMISSORY NOTE. Your note was treated by the bank as an asset that could be exchanged for cash. Anything that you can exchange for cash is an asset.

What 95 % of America does not realize is that within our monetary system a **Promissory Note is an asset**. The moment you signed that note it became money to the bank. There was no money in existence until you signed the note. Once the bank stamped it "pay to the order of" it became a negotiable instrument. To the bank, it had **Present Value**, because they were able to sell it for cash. To you it only had **Future Value.**

Plaintiff demands that the Defendant/Respondent show the Court proof of loss, proof of payment or any financial transaction that would entitle them to enforce an invalid note or foreclose on an invalid, unperfected mortgage lien. Defendant/Respondent cannot prove a loan was made, as there was no documentation because Banks lend money they do not have.

Plaintiff asks the court to compel the Defendant/Respondent to show the documentation or any financial transaction that would entitle them to enforce an invalid note or foreclose on an invalid, unperfected mortgage lien, proving that a loan was made, where the money came from the bank.

FACT 13

It is a FACT that CWB, MERS nor BOA et al can validate by Oath, Affidavit or Deposition (as required by the Fair Debt Collection Practices 15 USCS § 1692 et seq.), a security interest to claim a Secured Party status as a CREDITOR. Defendant/Respondent cannot show the connection and interest in Plaintiff's loan. The Defendant/Respondent must show that it validly holds both the mortgage and the underlying note in order to prove standing before this Court. See O.C.G.A. Section 18-2-80 (a) Principals of Law and Equity remain applicable.

Nowhere in the agreement or promissory note does the bank say that they're going to alter the note (in violation of UCC 3-407, by the way) and change it into a draft AFTER you sign it so that it modifies "in any respect the obligation of a party" and they do it by "an unauthorized addition of words to an incomplete instrument relating to the obligations of a party."

FACT 14

It is a FACT that form **FR 2046A** evidences the deposit of Plaintiff's promissory (mortgage) note on the ORIGINAL LENDER'S books as an asset/debit for which a CREDIT on its account ledger was and is due Plaintiff per 12 USCS § 1813(L).

Form 2046A will prove whether or not Plaintiff's mortgage has been paid in full. This form is required by law [12 USC §§ 248(a)(2) and (i) and 347b] and was used for accounting purposes in the bank's ledger concerning Plaintiff's loan [USC Title 12 Sec 83-13 Stat 36-38]. Therefore, Plaintiff states that the Defendant/Respondent and/or creditor have been paid in full 2, 3 or even 4 times. Form FR 2046A will prove that Plaintiff's mortgage has been paid in full.

FACT 15

It is a FACT that the funds for the loan were created by Plaintiff's signature. Plaintiff can prove that the Federal Reserve Bank of New York, the IMF and four other banks have stated in public that YOUR PROMISSORY NOTE was the source of the loan.

At the closing, the Plaintiff was led to believe that the "Mortgage Note" that he signed was a document that binds him to make repayment of "money" that CWB, the "lender" was loaning him to purchase the property he acquired. **There was NO disclosure to the Plaintiff to the effect that the "lender" was not really loaning any of their money to the Plaintiff and therefore was taking no risk whatsoever in the transaction! It was never disclosed to the Plaintiff that according to FEDERAL LAW, banks are not allowed to loan credit and are also not allowed to loan their own or their depositor's money.** Since this is the case, then how could this transaction possibly take place? Where does the money come from? Is there really any money to be loaned? The answer to this last question is a resounding **NO!** Most people are not aware that there has been no lawful money since the bankruptcy of the United States in 1933.

"We are human capital" (Executive Order 13037) The world cabal makes money off of the use of your **signatures on mortgages**, car loans, credit cards, your social security number, etc.

Therefore, Plaintiff demands the production of a certified copy of the ORIGINAL LENDER's (CWB) accounting records/data that shows the loan receivable on their books establishing ORIGINAL LENDER'S claim as a secured party CREDITOR and which claim

could lawfully be subordinated to others in compliance with the UCC § 1-310 ; **Subordinated Obligations**.

FACT 16

It is a FACT that when Plaintiff tendered the "Note" at the closing it was **NOT DISCLOSED** to the Plaintiff that his promissory note was the source of the loan and that his home was paid for right on the spot. The Plaintiff's signature on a "Note" makes that "Note" money in the amount that is stated on the "Note".

> When you sit down at the closing table to complete the transaction to purchase your home aren't you tendering a "Note" with your signature which would be considered money? That is exactly what you are doing. A "Note" is money in our monetary system today! You can deposit the "Federal Reserve Note" (a promise to pay) with a denomination of $10 at the bank and they will credit your account in that same amount. **Why is it that when you tender your "Note" at the closing that they don't tell you that your home is paid for right on the spot? The fact is that it IS PAID FOR ON THE SPOT. Your signature on a "Note" makes that "Note" money in the amount that is stated on the "Note"!**

This was never disclosed to the Plaintiff at the "closing" in either verbal or written form. Could this be the place where the other players came into the transaction at or near the time of closing? What happens to the "Note" (promise to pay) that the Plaintiff signed at the closing table? Did they put it in their vault for safe keeping as evidence of a debt that Plaintiff owes them as he was led to believe? Do they return that note to the Plaintiff if he pays off his mortgage in 5, 10 or 20 years? Did they disclose to Plaintiff that they do anything other than put it away for safe keeping once it is in their possession? Can the Defendant/Respondent prove this is wrong?

FACT 17

It is a FACT that there was never any accounting data showing that the loan was receivable on the books of the ORIGINAL LENDER or any accounting data showing the loan receivable on the books of the Defendant/Respondent. **BANK OF AMERICA is NOT the creditor**; can they show proof of loss, proof of payment or any financial transaction that would entitle them to enforce an invalid note or foreclose on an invalid, unperfected mortgage lien?

PLAINTIFF DEMANDS THAT THE DEFENDANT/RESPONDENT PROVIDE THE ACCOUNTING DATA THAT SHOWS THE LOAN RECEIVABLES ON THEIR BOOKS AND PRODUCE DOCUMENTATION OF PRIOR TITLE AND OWNERSHIP AND RIGHTS TO THE MONEY LOANED TO THE PLAINTIFF

PLAINTIFF ALSO DEMANDS THAT THE DEFENDANT/RESPONDENT PROVE VALIDATION OF THE DEBT IN THE FORM OF AN AFFIDAVIT OR A SIGNED INVOICE

FACT 18

It is a FACT that The Georgia Code in 13-1-1 in part states: "A contract is an agreement between two or more parties..." Plaintiff is the only party that signed the contract. Where is the signature for the other party? Where is the assent of the other party? If there is no signature or assent of the other party, then **THERE IS NO VALID CONTRACT!** No debt can exist unless a loan was made.

The Defendant/Respondent cannot prove a loan was ever made, as there was no documentation. Plaintiff asks the court to compel the Defendant/Respondent to show the Court the actual proof that they made the loan, lost the money and have not already been paid.

> "In the United States neither paper currency nor deposits have value as commodities. Intrinsically, a dollar bill is just a piece of paper; deposits merely book entries...The actual process of money creation takes place primarily in banks." The Federal Reserve Bank publications *I Bet You Thought*, page 27, and *Modern Money Mechanics*, pages 2-25, and others admit that the bank creates new money every time that banks grant loans, that the **promissory note is money**, and that the bank records a loan from you to the bank, resulting in a new bank liability. The new bank liability shows that the bank owes you money from recording the promissory note or credit card application as a loan from you to the bank.
>
> **The lender KEEPS THIS DEPOSIT AND NEVER PAYS YOU BACK.**

FACT 19

It is a FACT that the Plaintiff is a **PRIVATE BANKER** (*Perkins v. Smith* 116 NY 441; *People v. Doty*, 80 NY 225) in Commerce with authority to issue negotiable instruments. Plaintiff's financial instruments are no less legal than Plaintiff's mortgage note which was sold as a Mortgage Back Security. Plaintiff was the REAL creditor in the closing transaction. The lender did not loan anything of value or any money to the Plaintiff. The Plaintiff actually just paid for his own home with their promissory mortgage note that he gave the bank and got nothing back in return. **For any contract to be valid there must be consideration given by both parties and there must be 'full disclosure', 'good faith', 'valuable consideration', and 'clean hands'.** Can the Defendant/Respondent prove that the Plaintiff is NOT a Private Banker and that the Plaintiff's note was not sold as a MBS?

Banks [Defendant/Respondents] are prohibited from lending their 'own money' from their own assets, or from other depositors. So from where did the money come? The contract Plaintiff signed (their promissory note) was converted into a 'negotiable instrument' by the bank and became an asset on the bank's accounting books. According to the UCC 1-201(24) and 3-104, it was the Plaintiff's signature on the note which made it money.

FACT 20

It is a FACT that where the basis of an action is actual fraud, the mere silence of the party committing it is treated as a continuation of the original fraud and as constituting a fraudulent concealment. For a contract to exist between two parties there must be full disclosure and consideration. The Plaintiff was not given "**FULL DISCLOSURE**" of all the various aspects of the entire transaction.

TO BRING A CLAIM, ONE OF THE PARTIES MUST BE DAMAGED - PLAINTIFF HAS BEEN DAMAGED:

> "Material misrepresentations, though innocently made, relied and acted upon by party to who made, constitute "**LEGAL FRAUD**". *Keeton Packing Co v. State*, 437 S.W. 20, 28

AT THE BASIC CORE AND CAUSE OF PLAINTIFF'S COMPLAINT DEFENDANT/RESPONDENT MUST PROVE THESE ISSUES OF FACT:

A) Defendant/Respondent is Holders In Due Course;

B) Defendant/Respondent must prove possession of a valid Original Note and the Security Deed -- **the original contract with the 'wet ink' signatures of both parties. Plaintiff reserves the right to inspect it for authenticity;**

C) Defendant/Respondent must prove validity of Sale Under Power.

D) Defendant/Respondent must prove that they have **STANDING** to sue.

E) Defendant/Respondent must prove that they loaned money not credit. F) Defendant/Respondent must prove that they complied with UCC § 1-310 Subordinated Obligations.

G) Defendant/Respondent must prove that they complied with UCC § 1-304 Obligations of Good Faith.

H) Defendant/Respondent must prove a Security Interest. **Black 6th page 1357.**

I) Defendant/Respondent must prove that they are in compliance with the "Clean Hands" Doctrine. **Black 6th page 250.**

FACT 21

It is a FACT that for a contract to exist between two parties there must be full disclosure and consideration in compliance with GC 13-1-13 [free from] "...deception or fraudulent practice... [and] to prevent immediate seizure... of property". **To bring a claim -- one of the parties must be damaged**. Plaintiff's promissory note was altered and converted into a negotiable instrument without full disclosure. This is **FRAUDULENT CONVERSION**. (See GA code Title 10, Section 10-1-413)

Back in 2012, the major US banks settled a federal mortgage-fraud lawsuit for $1B. The suit was filed by Lynn Szymoniak, a white-collar fraud specialist, whose own house had been fraudulently foreclosed-upon. **When the feds settled with the banks, the evidence detailing the scope of their fraud was sealed, but as of last week, those docs were unsealed**.

The banks precipitated the subprime crash by "securitizing" mortgages -- turning mortgages into bonds that could be sold to people looking for investment income -- **and the securitization process involved transferring title for homes several times over**. This title-transfer has a formal legal procedure, and in the absence of that procedure, **no sale had taken place**.

The banks screwed up the title transfers. A lot. **THEY SOLD BONDS BACKED BY HOUSES THEY DIDN'T OWN.** When it came time to foreclose on those homes, they realized that they didn't actually own them, and **so they COMMITTED FELONY AFTER FELONY, FORGING THE NECESSARY DOCUMENTATION**. They stole houses, by the neighborhood-load, and got away with it.

The $1B settlement sounded like a big deal, back when the evidence was sealed. Now that Szymoniak's gotten it into the public eye, it's clear that $1B was a tiny slap on the wrist: the **banks stole trillions of dollars' worth of houses from you and people like you, paid less than one percent in fines, and got to keep the homes.**

Now that it's unsealed, Szymoniak, as the named plaintiff, can go forward and prove the case. Along with her legal team Szymoniak will pursue discovery and go to trial against the rest of the named defendants, including HSBC, the Bank of New York Mellon, Bank of America, Deutsche Bank and US Bank.

It's good that the case remains active, because the $1 billion settlement was a pittance compared to the enormity of the crime. **By the end of 2009, private mortgage-backed securities trusts held one-third of all residential mortgages in the U.S.** That means that tens of millions of home mortgages worth trillions of dollars have no legitimate underlying owner that can establish the right to foreclose. **This hasn't stopped banks from foreclosing anyway with false documents, and they are often successful, a testament to the breakdown of law in the judicial system**.

To this day, **banks foreclose on borrowers using fraudulent mortgage assignments**, a legacy of failing to prosecute this conduct and instead letting banks pay a fine to settle it. **Monday, August 12, 2013** http://boingboing.net/2013/08/12/unsealed-court-settlement-docu.html

FACT 22

It is a FACT that at the basic core and cause of Plaintiff's filed Complaint are primary issues of fact to show damage:

a) **"Fraudulent Conversion" (Black's Sixth, page 662)** ab inito, from the beginning, due to the fact that the Plaintiff, not the Defendant/Respondent or CWB, created the mortgage note providing for the funding of the loan.

b) A non-judicial foreclosure would be a violation of Plaintiff's rights under amendments One, Five, and Seven of the U.S. Constitution.

c) Plaintiff is the only secured party having provided the funding for the loan. Defendant/Respondent cannot prove the fact that they loaned money and not credit.

d) At the Plaintiff's closing there was not **FULL DISCLOSURE** of the "true nature" of the transaction as it actually occurred which is required for a contract to be valid and enforceable.

FACT 23

It is a FACT that the bank still owes Plaintiff for the value of the **converted funds they obtained for free due to the power of Plaintiff's signature**. The bank never risked any of their own assets or the assets of their depositors in this transaction and in fact are **forbidden to loan out their own assets** due to the policies of the Federal Reserve. The banks bookkeeping entries, tell who loaned what to whom and how much. There was no financial transaction where money exchanged hands. **BANKS LEND MONEY THEY DO NOT HAVE**.

> From the **Public Information Centers** for the Federal Reserve Banks... explains that the customer of a bank **is the depositor** when he obtains a loan and that he is **entitled to the return of his deposit**. Banks and/or depository institutions within the Federal Reserve System **DO NOT LOAN MONEY** from their own assets but rather, **THEY CREATE MONEY** by simply entering the amount created or crediting it in an accounting ledger.
>
> **FEDERAL RESERVE BANK OF PHILADELPHIA** - Paragraph 6, Paragraph 3: "Money for loans comes from two sources: 1) people who have saved and are willing to lend their savings; and 2) institutions such as banks, which have the power, within limits, to create money in checking-type accounts **when they make loans**." Paragraph 8, Paragraph 3: "Federal Reserve notes are the only kind of paper money issued today." *Modern Money Mechanics*

Banks [Defendant/Respondents] are prohibited from lending their 'own money' from their own assets, or from other depositors. So from where did the money come? The contract Plaintiff signed (their promissory note) was converted into a 'negotiable instrument' by the bank and became an asset on the bank's accounting books. According to the UCC 1-201(24) and 3-104, it was the Plaintiff's signature on the note which made it money.

Following is another quote from Attorney Walker F. Todd:

> *"I conclude that the Bank and the Borrower exchanged reciprocal credits involving money of account and not money of exchange; no lawful money was or probably ever would be disbursed by either side in the covered transactions. Cash (money of exchange) is money, and credit or promissory notes (money of account) become money when banks*

deposit promissory notes with the intent of treating them like deposits of cash. The Bank is trying to use the credit application form or the Note to persuade and deceive the Borrower into believing that the opposite occurred and that the Borrower was the borrower and not the lender."

THE AFFIDAVIT OF EXPERT WITNESS WALKER TODD EXPLAINS THAT THE BANKS ACTUALLY DO CONVERT SIGNATURES INTO MONEY. When you sign your name on a promissory note it becomes money whether you are talking about a mortgage note or a credit card application. http://freedom-school.com/affidavit_of_walker_todd_1-20-04.pdf

FACT 24

It is a FACT that **Plaintiff has been damaged by having to pay unjust and fraudulent servicing fees to the Defendant/Respondent. Plaintiff has been living in fear of foreclosure and eviction -- having his home stolen fraudulently by the Defendant/Respondent.**

Defendant/Respondent has also engaged in the so-called practice of "**dual track foreclosure**", where foreclosure is pursued while simultaneously negotiating with the borrower for the purpose of creating a false sense of security to the borrower and inducing the borrower to delay or postpone preparing a proper foreclosure defense. **This practice of "dual track foreclosure" was in strict violation of the Consent Decree.**

See **Exhibit "2" The Banks' Unfair, Deceptive, and Unlawful Servicing Processes** 1B. and **"We were told to lie"**

FACT 25

It is a FACT that the **Plaintiff was never told that the mortgage note he signed (his promissory note) was going to be converted into a negotiable instrument, i.e. MBS, and sold.** Therefore, Plaintiff demands that the Court require the **Defendant/Respondent to provide an affidavit or a letter under penalty of perjury stipulating that Defendant/Respondent or another alleged lender(s) are creditors following Generally Accepted Accounting Principles (GAAP) and showing true double entry book accounting was performed in the alleged loan transaction.**

Through 12 U.S.C. 1813(l)(1), the borrower is supposed to get credit for his Negotiable Instrument (Note). When a check is deposited, the bank credits one's account for the instrument and issues a receipt. More importantly, under both 12 U.S.C. 1813(l)(1) and 12 U.S.C. 1831n (GAAP), **the bank has to account for receiving the negotiable instrument**.

> Now the bank can sell or deposit this negotiable instrument, just like you can deposit cash or a check in the bank. **This creates the value for your loan.** The bank just gives this value (monies) back to you and calls it a loan. This is not a loan but an "**exchange**". **However, the bank expects you to pay AGAIN by putting a mortgage on your property. The bank still owes you for the value of your deposit (promissory note).**

FACT 26

It is a FACT that Plaintiff can state a claim because of this Fraud, Deception and LACK OF FULL DISCLOSURE by the Defendant/Respondent. **Plaintiff alleges that he has BEEN CHEATED, damaged and injured, causing damages to Plaintiff in the form of pecuniary loss, mental anguish and physical pain.**

The Defendant/Respondent risked none of its own assets in the so-called 'loan' to Plaintiff; rather it used Plaintiff's note to pay the seller, in order to raise an asset for itself, and also used the face value of Plaintiff's note as 'principal' which it claims it 'lent' Plaintiff and against which it charged interest. Consideration on the part of the bank is non-existent so **the bank has nothing to lose**. It cannot possibly sustain a loss. **Since consideration is essential to an enforceable contract and the note was obtained from us via fraud, the entire transaction/ contract is fraudulent.**

Mortgage contracts are written in such a way to appear as if the bank lent us funds before they received our promissory note/ mortgage contract so that the bank can use it as a receipt which they can sell. The contract reads, "**For a loan I have received...", but, you haven't received it yet.** So in fact, we signed and gave the mortgage contract/note to the bank prior to their giving us the funds. So, the application for the loan created the funds (it has our signature on it) and the note (with our signature) covered the funds to 'repay' the loan. Again, this is Constructive Fraud.

Plaintiff has been damaged and swindled by the Defendant/Respondent' deception, lack of full disclosure at the closing, and falsifying documents making the Plaintiff believe that there is a contract when in truth **NO TRUE CONTRACT EXISTS**. GC 13-1-1.

Defendant/Respondent's attorney will file a motion to dismiss because of "**failure to state a claim**". They need to re-read the FACT's Plaintiff has put forth in this action.

> Breach of the statutory duty upon mortgagee to exercise fairly and in good faith the power of sale in a deed to secure debt is a tort compensable at law, and entitles the debtor to punitive damages where appropriate. *Clark v. West*, 196 Ga. App. 456, 457, 395 .E.2d 884, 886 (Ga. Ct. App. 1990); see, e.g., *Curl v. First Federal Savings & Loan Assn.*, 243 Ga. 842, 843-844(2), 257 S.E.2d 264 (1979) (affirming award of actual and punitive damages in an action for wrongful foreclosure); *Decatur Investments Co. v. McWilliams*, 162 Ga. App. 181, 181, 290 S.E.2d 526, 527 (1982) (affirming award of punitive damages in a wrongful foreclosure action where debtor provided sufficient evidence of creditor's bad faith).

FACT 27

It is a FACT and well established law that **FRAUD** makes void any contract that arises from it. This means that any intentional "**LACK OF DISCLOSURE**" of the true nature of the contract Plaintiff entered into is **FRAUD** and would make the mortgage contract void on its face. This is "**studied concealment and misrepresentation**" that the Defendant/Respondent will base their defense upon will be a ***nul tiel record*** and the basis of the lenders defense claim of rights is ***crimen falsi*** from the beginning. Since "ab inito" **FRAUD vitiates all contracts and there is no time limit of right to rescind on FRAUD, Defendant/Respondent is liable, responsible and accountable**.

The intentional "lack of disclosure" of the true nature of the contract Plaintiff entered into if FRAUD and this would make the mortgage contract void on its face, would it not?

The Defendant/Respondent has to produce the following in order testability that a loan was made and that the Plaintiff may have a debt:

1. **Produce documentation** of prior title, ownership and rights to the money they purportedly loaned you;

2. **Produce documentation** of the history and origin of funds that they purportedly had prior title, ownership and rights to that they purportedly loaned you (banking requires 3 generations at least if not all the way back to issuance/creation of the alleged funds...this is why banks issue a letter of origin/history of funds);

3. **Produce documentation** of the actual transaction and transfer of said funds (prior title, ownership, and rights) from loaner to borrower (invoicing/receipts) there is a difference between a "loan" and "debt", conceptually and factually.

LOOK UP THE DEFINITION OF LOAN AND DEBT:

Loan - A sum of money lent at interest. **Debt** - The state of owing money. There is a difference between **statement** (An official account of facts, views, or plans, esp. one for release to the media) and **invoice** (A list of goods sent or services provided, stating the sum due for these; a bill)...only an invoice has to be paid...however the Defendant/Respondent would first have to show that they made Plaintiff a loan...if no loan, each invoice is fraud, mail fraud.

FACT 28

It is a FACT that in a non-judicial pre-foreclosure, the injured party may seek damages for mental anguish **in addition to the cancellation of the foreclosure**. *DeGolyer v. Green Tree Servicing, LLC*, 291 Ga. App. 444, 662 S.E.2d 141,147 9 Ga. Ct. App. (2008). "As a general precept, damages for mental distress are not recoverable in the absence of physical injury where the claim is premised upon ordinary negligence. **However, when the claim is for intentional misconduct, damages for mental distress may be recovered without proof of physical injury**." Clark, 196 Ga. App at 457-58; 395 S.E.2d at 886 (quoting *Hamilton v. Powell, Goldstein, Frazer & Murphy*, 252 Ga. 149, 150, 311 S.E.2d 818 (Ga. 1984)). *See* **Exhibit "2"** 1st paragraph on misconduct.

Defendants' misconduct resulted in the issuance of improper mortgages, **premature and unauthorized foreclosures**, violation of service members' and other homeowners' rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds. Each of the allegations regarding Defendants contained herein applies to instances in which one or more, and in some cases all, of the Defendants engaged in the conduct alleged.

FACT 29

It is a FACT, that any foreclosure action taken by the Defendant/Respondent, or their Attorney-in-Fact, from this date forward would be classified as a "**wrongful foreclosure**" attempting to obtain property by deception, uttering fraudulent instruments, using false fictitious claims and "common law fraud" if it is defined not just as one in which the documentation was done poorly, but because the Plaintiff does not owe BOA any money and/or was not in default because the contract, if one existed, **was invalid**. The Plaintiff is also making the allegation that the Plaintiff's alleged note was **fraudulently converted** (collateralized) and denies the allegations of the Defendant/Respondent with impunity. This has caused both mental and physical stress and damage to the Plaintiff.

RELIEF CAN BE GRANTED

In determining whether a complaint states a claim upon which relief can be granted, courts accept the factual allegations in the complaint as true and construe them in the light most favorable to the Plaintiff. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003).

To survive a motion to dismiss, a complaint must allege FACTS that, if true, "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, U.S. 129 S. Ct. 1937, 1949 (2009).

Plaintiff has stated 29 FACTS that he believes is true and factual and would like the Defendant/Respondent to answer each and every one of them with reliable, substantive and probative evidence.

> **"Allegation of complaint not denied in answer [with reliable, substantive and probative evidence] must be taken as admitted."** ***Fontes v. Porter*, 1946 (CA 9 Cal) 156 F2d 956. NOTE: See U.S. Constitution Article IV Section 1 for Application of Law.**

A claim is plausible where the Plaintiff alleges factual content that "allows the Court to draw the reasonable inference that the Defendant/Respondent is liable for the misconduct and fraud alleged." *Id.* The plausibility standard requires that the Plaintiff allege sufficient facts "to raise a reasonable expectation that discovery will reveal evidence" that will **support**

the Plaintiff's claim against the Defendant/Respondent. *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 556 (2007)

This honorable Court needs to understand that when the Defendant/Respondent **cannot produce the evidence of a loan**, there can be no debt that is collectable... Without evidence and proof of a loan **THERE IS NO DEBT** that could be collected by the Defendant/Respondent.

See for reference -

http://www.fourwinds10.net/resources/uploads/file/WHEREDOESTHEFRAUDBEGIN.pdf

Defendant/Respondent would destroy Plaintiff's situation complaining about the mortgage fraud if they could just one time produce evidence of a loan, they would destroy all of the arguments, all of the FACTS in this complaints, BUT THEY CANNOT AND WILL FAIL TO DO SO..."

EVERY LOAN IS FRAUD... NO LOAN WAS EVER MADE. BANKS LEND MONEY THEY DO NOT HAVE. NO LOAN WAS MADE, THEREFORE NO DEBT COULD LAWFULLY OR LEGALLY EXIST – see EXHIBIT "3"

Based on all the foregoing clearly stated material FACTS -- presentation and background evidence in the **EXHIBITS 2** and **3** -- Plaintiff moves that this honorable Court issue an order compelling the Defendant/Respondent to answer each and every FACT/QUESTION and REQUEST with reliable, substantive and probative evidence. Until Defendant/Respondent can do this they should be prohibited from attempting any **FORECLOSURE SALE now or in the future**.

DISMISSING ON FORM AND TECHNICALITY

The Defendant/Respondent's use of the Motion to Dismiss is simply a means for a big corporation with deep pockets that can hire fancy lawyers to quash the rights of a homeowner who is trying to discover the truth. The Defendant/Respondent is unable and unwilling to present evidence of sufficient claim and seeks to obfuscate the facts before this Court by bringing in references to Civil Code covering a foreclosure.

To dismiss the case on form and technicality defeats the spirit of the law of liberally construed arguments on substance and arguments that is afforded to pro per litigants. In fact, since a remedy is quickly, easily and affordably available to resolve this matter (i.e. Have BANK OF AMERICA produce the original note showing the endorsement or allonge for evidentiary inspection), to deny the Plaintiff this opportunity is to deny the rights of any and all homeowners in the State of Georgia, justice **in the face of widespread DOCUMENTED loan document fraud** and irregularities in the banking industry.

Plaintiff pleads to this Court NOT to have his complaint dismissed based on any Defendant/Respondent's pre-trial, Motion to Dismiss "**for failure to state a claim for which relief can be granted.**" Although the courts' repeatedly grant Motions to Dismiss, the meaning of the phrase "*failure to state a claim for which relief can be granted*" has remained almost as obscure as that of a magical incantation ("*abra cadabra!*"). Everyone has heard the words but no one seems to understand what they really mean.

"The **general rule** in appraising the sufficiency of a complaint for failure to state a claim is that a **complaint should NOT be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.**' *Conley vs. Gibson* (1957), 355 U.S. 41, 45, 46, 78 s.ct. 99, 102, 2led 2d 80; *Seymour vs. Union News Company*, 7 cir., 1954, 217 f.2d 168; and see rule 54c, demand for judgment, federal rules of civil procedure, 28 usca: " ***every final **judgment shall grant the relief** to which the **party** in whose favor it is rendered is entitled, **even if the party has not demanded such relief** in his pleadings." *U.S. v. White County Bridge Commission* (1960), 2 FR serv 2d 107, 275 f2d 529, 535

Plaintiff prays that the Judge will allow liberal discovery so that all of the issues are fully developed and a fair trial can be had. Plaintiff trusts that the Judge, having carefully surveyed Plaintiff's Complaint, will fulfill what is lawful and just and stand with the Court of Common Law Justice as a duly sworn Public Officer and let the Plaintiff have his day in court.

REMEDY REQUESTED

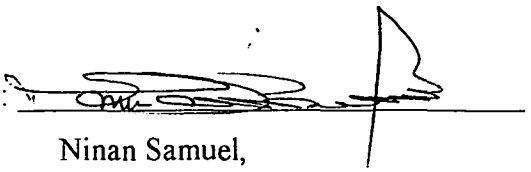
In this pleading, Plaintiff has engendered reasonable expectations that **REAL EVIDENCE** supports the FACTS, statements and claims made against the Defendant/Respondent.

If Defendant/Respondent fails to rebut/contest/refute each and every **STATED FACT** [and questions] with reliable, substantive and probative documentation (simply denying allegations of stated FACTs is juvenile and an insult to the intelligence to this Honorable court and will not be tolerated) then – Plaintiff prays judgment against Defendant/Respondent as follows:

1. For restitution and damages in an amount of $74,950.00;
2. For rescission of the alleged loan agreement rendering it Null and Void;
3. For a New Loan [new paper] containing the following:
    a) all prior penalties and fees eliminated,
    b) the loan principal will be calculated at 75% of the current fair market value as determined by two independent appraisals paid for by the Defendant/Respondent,
    c) 30 year fixed loan with the interest rate at 2% per annum,
    d) and FULL DISCLOSURE at closing.
4. For court costs and fees allowed by applicable statutes, equity and contract; and,
5. For such other and further relief as the Court deems just and proper.

Plaintiff would like to ask this Honorable court one question: Where is due process under the law for the Plaintiff when the Defendant is NOT REQUIRED by the Court to meet that burden of proof of standing, when demanded, to prove their action of foreclosure?

I respectfully submit this action to this honorable Court on this 27th day of November 2013.

By: 

Ninan Samuel,
Sui Juris in Propria Persona
2020 Spring Mist Terrace
Lawrenceville, GA 30043
770-572-9537

VERIFICATION

STATE OF GEORGIA)

ss

COUNTY OF GWINNETT)

I, Ninan Samuel, proceeding in Sui Juris in Propria Persona and under penalty of perjury state the following: I am over the age of 21 and competent to testify in all matters concerning the foregoing Complaint; I have prepared and read the foregoing Complaint, which comes from my first-hand knowledge and research off of the internet. All of the statements are true and correct. Everything I have stated is true to the best of my knowledge and belief.

Ninan Samuel,
Sui Juris in Propria Persona
2020 Spring Mist Terrace
Lawrenceville, GA 30043
770-572-9537

Sworn to and Subscribed Before Me
This 27 day of November, 2013

NOTARY PUBLIC, State of Georgia

KEN CHRZANOWSKI NOTARY PUBLIC GWINNETT COUNTY, GEORGIA MY COMMISSION EXPIRES JULY 13, 2015

EXHIBIT "1"

November 13, 2013

BANK OF AMERICA
Home Loan Assistance Dept
7105 Corporate Drive
Plano, TX 75024
Account number: 168294-728
Address: 2020 Spring Mist Terrace, Lawrenceville, GA

Dear Account Manger,

I have contacted BANK OF AMERICA numerous times and have been attempting to compile all information requested for BANK OF AMERICA to refinance my loan. I have completed your paperwork and now you ask for more statements and financial information requests along with other things.

BANK OF AMERICA recently sent me a formed letter indicating they were unable to approve my application at this time because I did not provide documents in a timely manner. This is completely fabricated and non-sense. You need to realize that I intend to fight to keep my home and therefore refute all options you presented in your letter.

I have contacted legal counsel and I was advised to file a PRO PER lawsuit because there is fraudulent conversion in play in my mortgage. There is alleged fraud in the documents and obvious non-disclosure issues also. Therefore; I am contemplating filing a fraudulent conversion lawsuit if you keep stalling and do not modify my loan to an agreeable modification. Legal counsel also brought up the fact that you are probably involved with "Dual Tracking" which is illegal and in violation of the Consent Agreement.

I have retained hired Lamm and Company Consultants Inc. headed by fraud examiner Charles K. Lamm who is a member of the association of Certified Fraud Examiners -- Certified I-A-ACFE: #95-403 -- to conduct a FRAUD EXAMINATION of the assignment documents along with the documents that BANK OF AMERICA has provided. If I decide to file a complaint I will bring this expert witness "affidavit" to court to show the court evidence that there was fraud in the documents.

So let me make you an offer that is reasonable and in keeping with current operating industry standards. If you will refinance my loan (or new paper) at 75% of the fair market value at 2% interest rate on a 30 year fixed mortgage, excluding all late fees, penalties and accrued interest, I will be more than happy to sign all of the paperwork and not take legal action. If you turn my reasonable offer down and proceed to foreclose the first Tuesday in November, I will not hesitate to retain legal counsel and proceed with a fraudulent conversion or wrongful foreclosure lawsuit.

You are hereby given official notice that if I do not receive your response agreeing to my terms or with your counter offer within 10 days from the date of this letter I will proceed with all legal options available to me.

EXHIBIT "2"

CASE 1:12-CV-00361-RMC FILED 03/14/12

This is a civil action filed jointly by the United States (Attorney Generals) against all banks list as Defendants In **Case 1:12-cv-00361-RMC** , filed 03/14/12 which alleges misconduct related to their origination and servicing of single family residential mortgages. As described in the allegations in this case Defendants' misconduct resulted in the issuance of improper mortgages, premature and unauthorized foreclosures, violation of service members' and other homeowners' rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds. Each of the allegations regarding Defendants contained herein applies to instances in which one or more, and in some cases all, of the Defendants engaged in the conduct alleged.

FACTUAL ALLEGATIONS

A. **The Banks' Servicing Misconduct**

47. Each of the Banks services home mortgage loans secured by residential properties owned by individual citizens of the Plaintiff States, and of the United States. 48. Each Bank is engaged in trade or commerce in each of the Plaintiff States and is subject to the consumer protection laws of the States in the conduct of their debt collection, loss mitigation and foreclosure activities protection laws of the Plaintiff States include laws prohibiting unfair or deceptive practices.

1. The Banks' Unfair, Deceptive, and Unlawful Servicing Processes

49. Under the States' consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers.

50. In the course of their conduct, management and oversight of loan servicing in the Plaintiff States, the Banks have engaged in a pattern of unfair and deceptive practices.

51. The Banks' unfair and deceptive practices in the discharge of their loan servicing activities, include, but are not limited to, the following:

a. failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements; **b**. charging excessive or improper fees for default-related services; **c.** failing to properly oversee third party vendors involved in servicing activities on behalf of the Banks; **d**. imposing force-placed insurance without properly notifying the borrowers and when borrowers already had adequate coverage; **e**. providing borrowers false or misleading information in response to borrower complaints; and **f**. failing to maintain appropriate staffing, training, and quality control systems.

2. The Banks' Unfair, Deceptive, and Unlawful Loan Modification and Loss Mitigation Processes

52. Under the States' consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers. **53.** Pursuant to HUD regulations and FHA guidance, FHA-approved mortgage lenders and their servicers are required to engage in loss-mitigation efforts to avoid the foreclosure of HUD-insured single family residential mortgages. E.g., 24 C.F.R. § 203.500 et seq.; Mortgagee Letter 2008-07 ("Treble Damages for Failure to Engage in Loss Mitigation") (Sept. 26, 2008); Mortgagee Letter 1996-25 ("Existing

Alternatives to Foreclosure -- Loss Mitigation") (May 8, 1996). Thus, when acting as a servicer, the Banks were required to refrain from foreclosing on any FHA insured mortgage where a default could be addressed by modifying the terms of the mortgage or other less-costly alternatives to foreclosure were available. **54.** Under the Treasury's various rescue and stimulus programs, the Banks received monetary incentives from the Federal government in exchange for the commitment to make efforts to modify defaulting borrowers' single family residential mortgages. See, e.g., Making Home Affordable Handbook v.1.0, ch. 13 ("Incentive Compensation") (Aug. 19, 2010). Under the programs, the Banks agreed to fulfill requirements set forth in program guidelines and servicer participation agreements.

JURISDICTION AND VENUE

Specific allegations are covered on pages **13 thru 46** of Case 1:12-cv-00361-RMC , the signatures of all the plaintiff US Attorney Generals in this complaint are on pages **49 thru 99**. This is the case that launched the monetary requirements for wrongful foreclosures for the Independent Foreclosure Review and the National Mortgage Settlement Program.

'We were told to lie' - Bank of America employees open up about foreclosure practices

Published time: June 19, 2013

Employees of Bank of America say they were encouraged to lie to customers and were even rewarded for foreclosing on homes, staffers of the financial giant claim in new court documents.

Sworn statements from several Bank of America employees contain a number of damning allegations, the latest claims entered as evidence in a multi-state class action lawsuit that challenges the bank's history with foreclosures.

According to testimonies obtained by journalists at ProPublica, supervisors at various Bank of America branches across the United States encouraged employees to regularly deny loan modification applications with no reason. At times, they were told to make up excuses to customers who risked losing their homes.

In one of the sworn statements, an ex-bank staffer said he would be directed to deny upwards of 1,500 loan modification applications at a single time with no apparent reason.

"To justify the denials, employees produced fictitious reasons, for instance saying the homeowner had not sent in the required documents, when in actuality, they had," William Wilson, Jr., a former underwriter for the bank, wrote in his statement.

Elsewhere in his testimony, Wilson wrote that he was instructed to deny any applications for the Obama administration-created Home Affordable Modification Program (HAMP) that were older than 60 days, even in instances in *"which the homeowner had provided all required financial documents and fully complied with the terms of a Trial Period Plan."*

Simone Gordon, a senior collector at B of A from 2007 through 2012, said, *"We were told to lie to customers and claim that Bank of America had not received documents it had requested."*

"We were told that admitting that the Bank received documents 'would open a can of worms,'" Gordon said, since the bank was regularly understaffed with regards to the process of reviewing the applications.

An average underwriter at B of A could have 400 outstanding applications awaiting review at any time, Gordon said in her statement. She also said collectors *"who placed ten or more accounts into foreclosure in a given month received a $500 bonus."*
"Bank of America also gave employees gift cards to retail stores like Target or Bed Bath and Beyond as rewards for placing accounts into foreclosure," she said.

Gordon also said that site leaders regularly instructed employees to prolong the loan modification process for customers because the longer proceedings were delayed, *"the more fees Bank of America would collect."*
The statements were filed in federal court in Boston, Massachusetts last week, and the bank has already responded by condemning the claims.

"We continue to demonstrate our commitment to assisting customers who are at risk of foreclosure and, at best, these attorneys are painting a false picture of the bank's practices and the dedication of our employees," the bank said in an official statement. *"While we will address the declarations in more depth when we file our opposition to plaintiffs' motion next month, suffice it is to say that each of the declarations is rife with factual inaccuracies."*

Even outside of the bank, though, others in the industry say they suspect these practices indeed occurred.

"I've seen all of those things that this lawsuit has mentioned. Yes I have," Jason McGrath a foreclosure attorney in Charlotte, North Caroline, told WSOCTV News. *"It's one of those things that it's great for folks like me because we experience this on a day-to-day basis and we are finally glad to see it see the light of day,"* he continued. *"Some of my clients say I'm so glad to hear you tell me other people are going through this and it's not just me. It's weird since they feel better that other people are going through this as well."*

Christy Romero, the special inspector general of the Troubled Asset Relief Program, told Bloomberg that *"It goes without saying that this is an outright abuse of consumers and government mortgage-assistance programs."*

The statements are just some of the latest testimonies against the bank, certainly not the first. Last year, Bank of America was among five mortgage servicers that divvied out a $25 billion settlement to state and federal regulators after coming under fire for their foreclosing practices.

http://theinternetpost.net/2013/06/20/we-were-told-to-lie-bank-of-america-employees-open-up-about-foreclosure-practices/

How Americans Got Burned by Bank of America

By John Maxfield
June 29, 2013

Have you been burned by **Bank of America**? If so, then you're in good company.

Some weeks ago we published a widely read article about how the nation's second largest bank by assets is alleged to have **delayed and denied mortgage modifications** to qualified homeowners under the Home Affordable Modification Program, or HAMP. Why would it do such a thing? According to the testimony of a former employee, "the more we delayed the HAMP modification process, **the more fees Bank of America would collect**."

In short, people are mad at Bank of America. And they're mad for good reason.

If you ~~have never experienced~~ [Bank of America], take a moment to experience what so many people have experienced.

My experience with Bank of America taught me one thing: I would go to a loan shark before I would ever do business with them again.

I have been a [Bank of America] customer since Feb 1999. Not a month goes by when it [doesn't try] its best to lose me as a customer. I hate hate hate them. And once you set up all the autopays, it is darned hard to undo it all (but I am doing it).

[Bank of America] takes perverse pleasure in hurting its customers.

But while these articles dealt with relatively narrow band of unscrupulous behavior -- that is, allegations that it **unjustly delayed and denied mortgage modifications under HAMP and thereby pushed thousands, if not tens of thousands, of homeowners into foreclosure** -- a cursory glance at Bank of America's past suggests that this is more than an isolated incident.

The pattern that's emerged over the past few years is one of a bank that cares neither about its customers nor, for that matter, its shareholders. It earned an estimated $4.5 billion by reordering its customers' debit card transactions in a manner that maximized overdraft frees. It settled a lawsuit alleging that it misled shareholders about the 2008 Merrill Lynch acquisition. **It's being sued for intentionally originating and selling "thousands of fraudulent and otherwise defective residential mortgage loans" to Fannie Mae and Freddie Mac that later defaulted,** causing more than $1 billion in losses and countless foreclosures.

And most recently, it's been reported that multiple state attorneys general are contemplating new lawsuits against the bank, as well as **Wells Fargo**, for violating the terms of the $25 billion National Mortgage Settlement, which the nation's largest mortgage servicers entered into at the beginning of last year.

Both **Citigroup** and **JPMorgan Chase** are purportedly under investigation for their involvement in a scandal to manipulate the London interbank offered rate, or LIBOR. And the British banking behemoth **HSBC** settled a case earlier this year that alleged that it illegally conducted transactions on behalf of Mexican drug lords, terrorists, and customers in places like Iran, Libya, and Sudan, among others.

But the misdeeds of others is no solace to the thousands of unwitting victims of Bank of America's less scrupulous practices.

Bank of America accused of racketeering in lawsuit

A lawsuit in federal court in Colorado accuses Charlotte-based Bank of America of racketeering, in what amounts to more fallout for the bank stemming from a federal mortgage-modification program.

The suit, filed Wednesday, claims violations of the federal Racketeer Influenced and Corrupt Organizations Act, also known as RICO. It cites statements that former Bank of America employees made last month in a separate, ongoing federal lawsuit in Massachusetts. Those former employees, including at least one who worked in Charlotte, claim the bank awarded cash and gift cards to them if they denied mortgage modifications to homeowners through the Home Affordable Modification Program.

Pointing to those statements, Wednesday's lawsuit alleges that the bank and a contractor ran a "scheme" to deny the modifications. The Colorado lawsuit, brought by three homeowners who sought HAMP modifications from Bank of America, names as a co-defendant Urban Lending Solutions, a Broomfield, Colo., contractor to whom the bank sent HAMP work.

The lawsuit echoes claims made in the Massachusetts case, alleging that Bank of America pushed homeowners to accept costlier in-house modifications, because those were more profitable for the bank than HAMP modifications. The latest lawsuit claims those activities constituted racketeering, using "interstate mails and wire communications."

Bank of America, in a statement, said Thursday that it intends "to provide conclusive evidence that these allegations are demonstrably false and devoid of any factual support. Our practice is to foreclose as a last resort when other available options to help keep people in their home have been exhausted."

http://4closurefraud.org/2013/07/14/bank-of-america-accused-of-racketeering-in-federal-lawsuit/

1. UNSEALED COMPLAINT | United States of America v. Bank of America NA – Whistleblower Says BofA Defrauded HAMP
2. BofA Gave Bonuses to Foreclose on Clients, Lawsuit Claims
3. Bank of America whistle-blower's bombshell: "We were told to lie"
4. Bank of America Lied to Distressed Homeowners, Gave Gift Cards and Bonuses to Best Foreclosers, Former Employees Say

EXHIBIT "3"

PLAINTIFF FUNDED HIS OWN LOAN

YOU FUNDED YOUR OWN LOAN WITH YOUR SIGNATURE.....ON A PROMISSORY NOTE

WHAT THE FEDERAL RESERVE AND THE GOVERNMENT ARE DOING AT THE NATIONAL LEVEL, LOCAL BANKS ARE DOING WITH US AT THE LOCAL LEVEL. The only difference is that instead of printing new notes, the banks are creating new checkbook money each time they make a loan.

Here's what happens when you go to the bank to get a loan for your home:

- The bank has you sign a Promissory Note.
- The back of the note is then stamped, "pay to order of" or similar words.
- The note is then deposited into a transaction account in your name. Now this was not disclosed to you before you signed the note and you did not give them the authority to open a transaction account on your name.
- The bank then writes a check from your transaction account deposit that you had no knowledge of, either to you or transfers the amount to those who should be receiving it.
- The bank then sells the note to Federal Reserve or into the securities market. The proceeds of which, are used to fund the alleged loan.

Through the bank selling your note, YOU PAID FOR YOUR PURCHASE WITH THE PROMISSORY NOTE. Your note was treated by the bank as an asset that could be exchanged for cash. Anything that you can exchange for cash is an asset. What 95 % of America does not realize is that within our monetary system a **Promissory Note is an asset**. The moment you signed that note it became money to the bank. There was no money in existence until you signed the note. Once the bank stamped it "pay to the order of" it became a negotiable instrument. To the bank, it had **Present Value**, because they were able to sell it for cash. To you it only had **Future Value.**

What's wrong with this loan scenario? You always suspected that there was something not right when you went for a loan from the bank. Now you know what it is. Let me give you a simple illustration that will help you to understand this.

Imagine if you came to me needing a loan.

You: "Can you give me a loan for $10,000."
Me: "sure I'll loan you $10,000, but you have to give me an asset worth $10,000."
You: "All I've got is this diamond ring worth $10,000."
Me: "That will do." I then take the ring and sell it for $10,000, and come back to You with a check for $10,000.
Me: "Here's your $10,000 loan at 10% interest, and the payments are $200 a month for x

number of years."
You: "xxxxxxx!" We won't even print what you would tell me to do with that loan.

In fact if you called the police I would go to jail for fraud, loan sharking, racketeering etc. BUT **THIS IS EXACTLY WHAT THE BANKS ARE DOING EVERY SINGLE DAY.**

Now what is wrong with this loan? EVERYTHING!

- It's not a loan. It's an exchange. We simply exchanged your diamond for a $10,000 check.
- It never cost me anything to make the loan. I brought nothing to the table. My assets did not decrease by $10,000, as would be the case in a true, honest loan. Therefore I had no risk.
- You provided the asset (the diamond ring). I merely sold it and gave you back your money, and then had the unmitigated gall to charge you interest on nothing.

In the same way, **YOUR PROMISSORY NOTE BECAME THE FUNDING INSTRUMENT OF YOUR BANK LOAN**. The bank received it as an asset, as legal tender, i.e. in the form of money and deposited in an account. According to the Uniform Commercial Code, **a promissory note is a negotiable instrument, and is therefore legal tender**. As such it is the funding instrument. Therefore there was no loan. It was an exchange. Your note which, could be monetized by the bank, was exchanged for the bank's check. And the bank lied and called it a loan. Banks and lending institutions only **appear** to lend money.

The "lending" techniques that are used are beyond brilliant. It took some very, very smart people to figure out how to **appear to be lending money**, but in actuality have the value supplied by the person wanting a loan. And that is what is happening.

"THIS IS TOO INCREDIBLE TO BELIEVE, SHOW ME PROOF."
If you are finding this rather difficult to believe, let's look at some Federal Reserve Bank publications, which actually admit that this is how bank loans work.

*"Transaction deposits are the modern counterpart of bank notes. It was a small step from printing notes to **making book entries crediting deposits of borrowers,** which the borrowers in turn could "spend" **by writing checks, thereby "printing" their own money.**"*

Modern Money Mechanics, page 3, Federal Reserve Bank of Chicago.

*"Of course **they do not really pay out loans from the money they receive as deposits.** If they did this, no additional money would be created. **What they do when they make loans is to accept promissory notes in exchange for credits to the borrowers' transaction accounts.** Loans (assets) and deposits (liabilities) both rise by $9,000. Reserves are unchanged by the loan transactions. But the deposit credits constitute new additions to the total deposits of the banking system."*

Modern Money Mechanics, page 6, Federal Reserve Bank of Chicago.

According to the Fed, it is not their policy to make loans from other depositor's money. Neither do they make loans from their own assets. They make loans by accepting promissory notes in exchange for credits to the borrower's transaction account. They even admit that it's an exchange. IF IT'S AN EXCHANGE HOW CAN IT BE A LOAN?

"In exchange for the note or security, the lending institution credits the depositor's account or gives a check that can be deposited at yet another depository institution."

Two Faces of Debt, page 19 Federal Reserve Bank of Chicago.
You want more proof: **THE BANK'S OWN BOOKKEEPING ENTRIES ARE PROOF.** Let's say the bank receives a $1,000.00 check deposit. It is recorded as an asset to the bank. But in order to balance their books, on the other side of the ledger they have to record a $1,000.00 liability. The bank has an asset for $1,000.00, but it also has a liability of $1,000.00 to you, the depositor.

The bank owes you $1,000.00. You have a right to draw on that $1,000.00 whenever you choose. Now when you purchased your vehicle instead of a check you gave the bank a signed promissory note. The bank deposited it, just like a check or cash, in a transaction account in your name. Now remember that all deposits are received as assets to the bank. However, they also have a corresponding liability to the face value of your promissory note. Therefore, in reality you don't owe the bank anything. You simply exchanged your promissory note for their check, which paid for the vehicle. The account is a wash.

SO WHY ARE WE PAYING MONTHLY PAYMENTS AND INTEREST FOR SOMETHING THAT, WITHIN OUR MONETARY SYSTEM, HAS ALREADY BEEN PAID FOR?

Actually the bank owes you! They still do not own your promissory note. They made an exchange – your promissory note (asset to the bank) was exchanged for the face value of the note. They deposited your note and then sold it remember. Therefore, on their books they still have a liability to you.

From Freedom Club CANANDA

http://canadafcusa.wordpress.com/FREEDOM-CLUB-USA/YOU-FUNDED-YOUR-OWN-LOAD/